

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**CLARISSA AND ROBERT HERNANDEZ, on
behalf of themselves and others similarly
situated,
SHANNON WOODWORTH, on behalf of
herself and others similarly situated,
DAVID GALLEGOS, on behalf of himself
and others similarly situated,**

Plaintiffs,

Civil Action No. _____

v.

**MICHELLE LUJAN GRISHAM,
Individually, Acting Under the Color of Law,
RYAN STEWARD,
Individually, Acting Under the Color of Law,
KATHYLEEN M. KUNKEL,
Individually, Acting Under the Color of Law,
and the STATE OF NEW MEXICO,**

Defendants.

**DECLARATION OF DAVID GALLEGOS IN SUPPORT OF APPLICATIONS FOR A
TEMPORARY RESTRAINING ORDER**

I, David Gallegos, declare as follows:

1. I am a citizen of the United States. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would testify competently to the matter set forth herein.
2. I was elected to the Eunice School Board in 2003.
3. As a school board member, I was elected to ensure our students would get the best education possible from Eunice Municipal Schools.
4. It is important for school aged children to receive an education, to which they can use to progress themselves to a prosperous and successful life.

EXHIBIT D

5. I have heard from Parents, Teachers and Adminstrators who wish for students to return to in person instruction. Those who I have spoken have concern that their student will fall short and their future opportunities may be hindered. (Ex. A)
6. The Governor has discriminated and continues to discriminate against the eastern and southeastern counties of New Mexico.
7. The Data the governor has relied upon to make decisions regarding the COVID-19 outbreak are arbitrary and capricious.
8. I believe that any student, teacher or staff member should not be compelled to return to classes at this time however, it should be the individual decision of the administrator, teacher, parent and student whether they return to school. School districts should provide options for everyone so that everyone can make the best decisions for their family based upon their individual needs.

I declare under penalty of perjury under the laws of the United States of America and the State of New Mexico that the foregoing is true and correct.



David Gallegos



Hobbs Municipal Schools

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September 3, 2020

Honorable Governor Michelle Lujan Grisham
Governor of New Mexico
490 Old Santa Fe Trail #400
Santa Fe, NM 87501

Dear Governor Lujan Grisham,

Thank you for taking time to read my letter. I am a 40-year-veteran educator with 20 of those years as a school superintendent. I've been fortunate to work in districts with as few as 300 students and as many as 10,000 students. I've never felt so impassioned for our children yet so helpless. I will not debate the empirical data used to determine average daily COVID cases or test positivity per 100,000. We may or may not agree with how the data is extrapolated, but I believe we can all agree this is a disease we must take seriously.

Lea County did not have a daily average positive case per 100,000 until June 7. I cannot find data for positive test rate prior to July 1. Yet our school system was required to move to remote learning from March 13 through May 28. During the spring shutdown, Hobbs Municipal Schools followed Public Education Department guidelines and focused on students graduating in May. The instructional platform was below average and resulted in a loss of learning as noted by the Legislative Finance Committee report. As the virus has increased in the southeastern part of the state, we are now caught in a quagmire in which we are not allowed to move forward while the rest of the state is given the green light for hybrid learning. Our children's learning will now be impacted twice.

HMS surveyed parents twice about remote and face-to-face learning. An overwhelming 78 percent of our parents requested that their children attend school in a face-to-face setting in a June 28 survey. An Aug. 2 survey showed 67 percent of our parents requested in person learning. In light of those results, we began on Aug. 31 returning Pre-K- third grade students to classrooms on a 5:1 basis for one day per week. HMS has given teachers opportunities to work in a remote learning environment or preparing for face to face instruction. HMS has ample number of teachers who are willing and ready to teach children in person on campus. We've had constant communication, including surveys to determine the number of teachers with underlying health conditions. In a September 2nd survey of Hobbs Municipal Schools staff, 74.35 percent support bringing students to campus for face to face instruction. HMS Board of Education is in support of our children returning to face to face instruction.

Taking into consideration the average positivity rates, HMS requests permission to expand our 5:1 model to fourth and fifth grade students. We would also request permission to work with the Public Education Department to expand the 5:1 to 9:1 based on our protocols and ability to ensure the safest environment for our students and staff. HMS would limit participation so as not to exceed the mass gatherings definition listed in the August 28th Public Health Order.

"Mass gathering" means any public gathering, private gathering, organized event, ceremony, parade, organized amateur contact sport, or other grouping that brings together more than ten (10) individuals in a single room or connected space, confined outdoor space or an open outdoor space.

Parents would have the option to send their children in person. The 9:1 ratio would be implemented after our campuses have completed ten days of 5:1 face-to-face instruction without a positive case.

My request is based on parent input. Our school board is elected by their local district constituents. Hobbs Municipal Schools has engaged our parents, students and staff through various re-entry committees throughout the summer. Please allow local control to determine the viability of face-to-face instruction with proper guidance and collaboration from the Public Education Department. Although we are proud to be New Mexicans, border communities are subjected to comparison with districts in our adjoining states/counties. Yoakum and Gaines Counties in Texas have higher positive test rates than Lea County, yet three adjoining districts (Seminole ISD, Seagraves ISD, and Denver City ISD) are operating at 100 percent capacity and are instructing full-time.

Hobbs Municipal Schools has made tremendous gains in the past eight years academically. We have also decreased the achievement gap and increased graduation rates among our minority subgroups. Remote learning could be detrimental to children who need public education in a face-to-face setting. HMS has offered staff the choice to teach in a remote setting or face to face. Our numbers show we have sufficient staff who are comfortable teaching children in person. HMS also has seen an increase in anonymous reports from our students with mental health concerns related to being isolated from their peers.

Thank you for your time and I look forward to your response. Please feel free to contact me for additional information.



TJ Parks
Superintendent of Schools

September 3, 2020

To Whom it May Concern:

I am writing, as both a concerned educator and parent, to address the complete disregard of our students in Lea County by the leadership of our current Governor. The blatant bureaucratic biases have consistently ignored or acknowledgement both school districts and citizens of the area. This is not what I ever expected to witness out of this counsel, especially after running on an educationally friendly platform that toted the acknowledgements of equitable educational needs, especially in rural areas.

I am not a New Mexico native, but my grandparents immigrated to New Mexico to provide an opportunity to their children that they did not have. I grew up listening to the claim how America was the best country in the world despite the racial tension they faced that would not allow them to even purchase a home. They fought for equality and provided opportunities for a higher education to all 12 of their children. Education is a path to equality and freedom for generations to come.

I never imagined I would find the institution of education under attack in such a manner or feel I would have to fight for my own Children's right to learn in a classroom – but I am present, wholeheartedly in the fight.

I stand witness to the struggles our children are experiencing as they attempt to navigate an increasingly unsocial atmosphere that suffocates their advances in communication and advocacy. The majority of my time as a teacher has been spent communicating via email to students who are reaching out, feeling lost, and struggling – NOT with material, but with their own fears and anxieties of what this will do to their opportunities and futures.

My own children, who sit each day working though materials are suffering from a lack of differentiation that is absolutely required to help advance and guide elementary age children. Face to face instruction is not only important for social growth, but also for this age to begin taking responsibility for their own learning.

My days are spent drying the tears of my 1st and 5th grader who want to be able to learn directly from their teachers; corresponding with literally hundreds of my own students who are overwhelmed, lonely, and scared of what their future holds; and trying to explain to angry parents who are taking their own frustrations out on the teachers and districts, because they do not understand we have no options.

What the Governor fails to acknowledge, or even recognize, is that her own political ambitions have far overlooked what she feels is acceptable in her care of the people she governs. Instead, her mannerisms, diction, and tone when addressing New Mexicans shows contempt and disrespect. The nature of her decisions are no longer based on recognizable data, is not provided in a manner to show transparency or honesty, and is blatant in her prejudices toward those who have personally upset her.

Our children are suffering. States across the nation who once had more severe lockdown measures, and still practice strict mandates, have trusted school districts on a local level to determine what THEY feel is BEST for their students. Lea County districts ask for the same and equitable practices so we can address and meet the needs of our communities.

What Governor Grisham also fails to even take into consideration is the socioeconomics of rural areas, especially those along the southern part of the state. The children here are often only the first or second generation, are immersed in language acquisition, and struggle with the technology and dependable internet connections. Our districts are bankrupting themselves to

provide computers and resources, but what is even more disturbing than the economic impact this is having is the mental toll on the community.

The Hobbs School District lost one of their own elementary age students to suicide within the first few months of the lockdown, and we have spent countless hours attempting to locate those students who have not bothered to enroll in the school year. From elementary to high school, many students depend on the district for food, for social growth, and in some cases, the only structure and care they receive from an adult. The realities of this are harsh, but to deny our children the basic skills and support are even worse, and Governor Grisham is wholly guilty in her neglect of them.

Thank you for your time,
Danielle Cornum
Hobbs High School English